



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

FEB 25 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William B. Smith
Executive Vice President & Chief Operating Officer
Troy Corporation
8 Vreeland Rd.
P.O. Box 955
Florham Park, NJ 07932-0955

RE: Pierson's Creek Superfund Site
Request for Information Pursuant to 42 U.S.C. §§ 9601-9675

Dear Mr. Smith:

This letter seeks your cooperation in providing information relating to your company and the contamination of the Pierson's Creek Superfund Site ("Site") located in Newark, New Jersey. We encourage you to give this matter your immediate attention. We request that you provide a complete and truthful response to the attached Request for Information **within 30 business days** of your receipt of this letter.

The United States Environmental Protection Agency ("EPA") is investigating the presence of hazardous substances located at the Site, including hazardous substances that are or were discharged into Pierson's Creek. EPA has documented the release or threatened release of hazardous substances, pollutants and contaminants at the Site. Under Section 104(e)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority. EPA is seeking to obtain information concerning the Troy Chemical Company and its generation, storage, treatment, transportation, and disposal methods of these hazardous substances at its facility located at 1 Avenue L in Newark, New Jersey. EPA believes that you might possess information which may assist EPA in its investigation of the Site.

While EPA seeks your cooperation in this investigation, compliance with this Request for Information is required by law. In preparing your response to this Request for Information,

please follow the instructions provided in Attachment A. When you have prepared your response to the Request for Information, contained in Attachment B, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes EPA to pursue penalties for failure to comply or for failure to respond adequately to this Request for Information.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold from EPA the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions in Attachment A, including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by our Request for Information, you must immediately turn over the additional or different information to EPA.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

Your response to this Request for Information should be postmarked or received by EPA within **30 business days** of your receipt of this letter. Your response should be mailed to:

Pamela Tames, P.E., Remedial Project Manager
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
290 Broadway - 20th Floor
New York, NY 10007-1866


with a copy to:

Amelia Wagner, Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway - 17th Floor
New York, NY 10007-1866

If you wish to discuss this further, please contact Ms. Tames at (212) 637-4255 with technical questions or Ms. Wagner at (212) 637-3141 with legal questions. Please note that all communications from attorneys should be directed to Ms. Wagner.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Eric J. Wilson", with a stylized flourish at the end.

Eric J. Wilson, Deputy Director for Enforcement & Homeland Security
Emergency and Remedial Response Division

Enclosures

cc: Seth Goldberg, Esq., Steptoe & Johnson
Pamela Tames, P.E., EPA
Amelia Wagner, Esq., EPA

ATTACHMENT A

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

A. Directions

1. In answering these questions, every source of information to which you have access should be consulted, regardless of whether the source is in your immediate possession or control. All documents or other information, including records of all types of manufacturing, treatment, transportation or disposal operations, in your possession or in the possession of the company should be consulted.
2. A complete and separate response should be given for each question and subpart. Provide all documents that relate to each question. For each question contained in this letter, if information or documents responsive to this request are not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
3. Identify each answer with the number of the question and the subpart to which it responds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
4. Provide responses to the best of your ability, even if the information sought was never put in writing or if the written documents are no longer available. Consult with all present and past employees and agents of your company whom you have reason to believe may be familiar with the matter to which the question pertains.
5. In answering each question, identify each individual and any other source of information (including documents) that were consulted in the preparation of the response to the question.
6. If you have reason to believe that an individual other than one employed by your company may be able to provide additional details or documentation in response to any question, state that person's name, last known address, phone number and the reasons for your belief.
7. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages and all recipients of the documents with their addresses.
8. If anything is omitted from a document produced in response to the Request for Information, state the reason for, and the subject matter of, the omission.

9. For each and every question contained herein, identify all documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the question and provide true and accurate copies of all such documents.
10. If you are unable to give a detailed and complete answer, or to provide any of the information or documents requested, indicate the reason for your inability to do so.
11. Sign and notarize the Certification of Answers where indicated.
12. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), Section 3007(b) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6927(b), and 40 CFR § 2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim as confidential, you must separately address the following points:

- A. the portions of the information alleged to be entitled to confidential treatment;
- B. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- C. measures taken by you to guard against the undesired disclosure of the information to others;
- D. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- E. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- F. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type “confidential” on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

B. Definitions

1. The term **“you”** shall mean the addressee of this Request for Information, the addressee’s officers, managers, employees, contractors, trustees, partners, successors, assigns or agents.
2. As used herein, the terms **“Company”** or **“your Company”** refer not only to your Company as it is currently named and constituted, but also to all predecessors or successors in interest and all subsidiaries, divisions, affiliates and branches of your Company and all of its predecessors or successors in interest. The term “Company” is not limited to corporations.
3. The term **“Site”** shall mean the Pierson’s Creek Superfund Site located in Newark, New Jersey. The Site includes the Troy Chemical Company property located at 1 Avenue L, and Pierson’s Creek, which begins in the vicinity of Avenue L, proceeds through open drainage ditches and culverts and covered pipes until it discharges into Port Newark. The Site also includes all tributaries to the Creek.
4. The terms **“facility”**, **“hazardous substance”**, and **“person”**, shall have the meanings set forth in Section 101(9), (14), and (21) of CERCLA, 42 U.S.C. §§ 9601(9), (14), and (21) respectively.
5. The terms **“disposal”**, **“hazardous waste”**, and **“storage”** shall have the meanings contained in Sections 1004(53), (35) and (33) of RCRA, 42 U.S.C. §§ 6903(53), (35) and (33), respectively.

6. The term “**pollutant or contaminant**” shall have the same definition as that contained in Section 101(33) of CERCLA and includes any mixtures of such pollutants or contaminants with any other substances.
7. The term “**identify**” means, with respect to a natural person, to set forth the person’s name, present or last known employer, business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, occupation, position or business.
8. With respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) the term “**identify**” means to provide its full name, address, and affiliation with the individual and/or company to whom this request is addressed.
9. The term “**document**” and “**documents**” shall include any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in the company’s possession, custody, or control or known by the company to exist, including originals and all non-identical copies.
10. The term “**arrangement**” shall include every separate contract or other agreement between two or more persons, whether written or oral.
11. The term “**material**” or “**materials**” shall include any and all objects, goods, substances, or matter of any kind, including, but not limited to, wastes.
12. The term “**release**” shall have the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. §9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
13. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions shall apply.

ATTACHMENT B

REQUEST FOR INFORMATION

The United States Environmental Protection Agency ("EPA") is investigating the release of hazardous substances at the Pierson's Creek Superfund Site. The information requested below pertains to the Site as it is defined in the Definitions at ATTACHMENT A. Please provide the requested information, including copies of all available documentation that supports your answers.

- 1) This question pertains to the current company located at One Avenue L, in Newark, New Jersey (hereinafter the "facility"). If this company did or currently does business under more than one name, list each name.
 - a. Is Troy Chemical Corporation, Inc. (hereinafter, "Troy Chemical") the legal name of the company? If not, please provide the correct name.
 - b. State the name and address of the president or the chairman of the board, or other presiding officers of Troy Chemical.
 - c. Identify the date of incorporation and the state of incorporation of Troy Chemical and the company's agent for service of process in the state of incorporation and in New Jersey.
- 2) Is Troy Chemical located at the address of One Avenue L in Newark, New Jersey, a subsidiary or affiliate of another company? If yes, please identify the name of each related company. For each related company, describe the relationship to the company currently located at the facility and indicate the date and manner in which each relationship was established.
- 3) In what year did Troy Chemical begin to operate at the facility?
- 4) Please provide a copy of the deed or deeds to the property or properties that comprise the facility. If the property(ies) is/are held in the name of another entity, please provide the name of the entity, its relationship to Troy Chemical and list the company president or chairman of the board or other presiding officers of that company.
- 5) If Troy Chemical does not own the facility, identify the entity from whom Troy Chemical leases or rents the facility. Please provide copies of any lease or rental agreements.

- 6) Is Troy Chemical the successor to any liabilities, including those under CERCLA, of any previous company located at the facility?
- 7) Describe in detail the company's past and current relationship with any affiliated company(ies) at this facility, including but not limited any companies identified in your response to the preceding question, and by responding to the following questions.
 - a. State the name of the prior operator of the facility.
 - b. Did Troy Chemical retain the liabilities of the previous company for operations prior to Troy Chemical operating at the facility?
- 8) Describe the relationship between the current company, Troy Chemical, and the following:
 - a. Pre-1980 Troy (the corporation that operated at the 1 Avenue L facility in Newark, New Jersey before Troy Chemical operated at the same address.)
 - b. Troy Corporation with an address of 9 Vreeland Road, Florham Park, New Jersey
 - c. New Corporation with an address of 9 Vreeland Road, Florham Park, New Jersey
- 9) If Troy Chemical has had any changes in company name, ownership or structure or has obtained an interest in or divested itself of an interest in any other corporation, subsidiary, division or other entity, identify such transaction.
- 10) If not already identified, please describe any other changes in ownership of any company that was located at the facility from on or around 1950 to the present including the date of any ownership change. If any owner was/is a company, identify if the company was a subsidiary or division of another company. In your identification of any company, please provide the full company name, the state of incorporation, and all fictitious names used/held by that company.
- 11) For each company at the facility that is a subsidiary of another company, please provide a chart that details the corporate structure from this facility through all intermediary entities to the ultimate corporate parent. For purposes of this information request, the term "ultimate corporate parent" refers to the corporate entity that while owning or controlling the majority of the shares of common stock in a subsidiary corporation is not primarily owned/controlled by another corporation.
- 12) For each change in ownership of Troy Chemical, describe the type of change, *e.g.*, asset purchase, corporate merger or name change, as well as the date of the change in ownership.
- 13) For all ownership changes identified in your responses to questions 9 and 10, above, please provide a copy of the merger document, buy/sell agreement or other agreement that effected the ownership change.

- 14) Please provide copies of any indemnification agreements associated with the transactions identified in your responses to questions 9 and 10, above. Please identify all indemnity payments that have been sought pursuant to any agreements, describe the circumstances surrounding each attempt to seek indemnity, the current status of each attempt and if any attempt was resolved, describe the final resolution.
- 15) Did any employees who worked for pre-1980 Troy continue to work for Troy Chemical after it began operating at the facility? For those employees who continued to work for Troy Chemical, was sick-leave and vacation time that accrued prior to when Troy Chemical began operating at the facility carried forward?
- 16) Were any senior management officials who worked for pre-1980 Troy retained to work for Troy Chemical after it began operating at the facility? If yes, please identify by name those senior management officials, their positions held at pre-1980 Troy and Troy Chemical, and their time of service with pre-1980 Troy and Troy Chemical.
- 17) At the time that Troy Chemical began operating at the facility, identify all plant processes, manufacturing methods and/or procedures that were retained from the operations of pre-1980 Troy. If any processes, manufacturing methods and/or procedures were discontinued when Troy Chemical began its operations, identify the activities and the approximate time when those activities were discontinued.
- 18) Did any shareholders of pre-1980 Troy become shareholders of the Troy Chemical which began operating at the facility in 1980?
- 19) Did Troy Chemical acquire any intangible assets from pre-1980 Troy? Your response is to include but not be limited to goodwill, client lists, all trademarks, patents and copyrights as well as exclusive rights to market products, sales territories and rights to fictitious names.
- 20) Has the value assigned to any intangibles identified in your response to #19 above been revalued? If yes, provide the date of the revaluation and the reasons for the revaluation.
- 21) Describe the nature of pre-1980 Troy's business and the nature of Troy Chemical's business once it began operating at the facility, including whether Troy Chemical held itself out to the public as the same entity as pre-1980 Troy.
- 22) If not already identified, please list any officers, directors, and majority shareholders of pre-1980 Troy that remained with Troy Chemical after it began operating at the facility.
- 23) If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide the following information:
 - a. Your document retention policy.

- b. A description of how the records were destroyed (burned, archived, trashed, etc.) and the approximate date of destruction.
 - c. A description of the type of information that would have been contained in the documents.
 - d. The name, job title and most current address known by you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; and the person(s) who would have been responsible for the destruction of these documents.
- 24) At any time during Troy Chemical's operations at the facility, were any hazardous substances discharged to or disposed of in Pierson's Creek including its tributaries? If yes, identify the hazardous substances, estimate the amount of material discharged to or disposed of in Pierson's Creek including its tributaries and the frequency with which this discharge or disposal occurred. Also, please include the analytical results of any sampling of the Creek which might have been done after any discharge or disposal occurred.
- 25) At any time during Troy Chemical's operations, please identify any leaks, spills, floods, explosions, fires or other incidents of accidental material discharge that occurred at the facility during which or as a result of which any hazardous substances, were released onto the property, into the waste water or storm drainage system at the facility that may have found its way into Pierson's Creek including its tributaries. Provide any documents or information relating to these incidents, including the ultimate disposal of any contaminated materials.
- 26) If known, when was the culvert that contains Pierson's Creek on the Troy Chemical property constructed?
- 27) If known, when was Pierson's Creek plugged at both ends on the Troy Chemical property?
- 28) Please provide a detailed description of any civil, criminal or administrative proceedings against Troy Chemical during its operations at the facility for violations of any local, state or federal laws or regulations relating to water pollution or hazardous waste generation, storage, transport or disposal. Provide copies of all pleadings and depositions or other testimony given in these proceedings.
- 29) Please provide the name address, telephone number, title and occupation of the person(s) answering this "Request for Information" and state whether such person(s) has personal knowledge of the responses. In addition, identify each person who assisted in any way in responding to the "Request for Information" and specify the question to which each person assisted in responding. Please include the names and addresses of former employees who were contacted to respond to any of the questions.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of _____:

County of _____:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (answers to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that my company is under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or the company's answers thereto should become known or available to the company.

NAME (print or type)

TITLE (print or type)

SIGNATURE

Sworn to before me this ____ day of _____ 2019.

Notary Public Signature

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. William B. Smith
Troy Corp
8 Vreeland Rd.
P.O. Box 955
Florham Park, NJ 07932-0955



9590 9402 3069 7124 4639 35

2. Article Number (Transfer from service label)**COMPLETE THIS SECTION ON DELIVERY****A. Signature****X**

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B. Received by (Printed Name)**C. Date of Delivery**

- D. Is delivery address different from item 1?** ☐ Yes
If YES, enter delivery address below: ☐ No

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PS Form 3811, July 2015 PSN 7530-02-000-9053

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Mr. William Smith

Troy Corp.

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